

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of: **Roy Schoenberg**

Serial No.: **10/825,352**

Art Unit: **3686**

Filed: **April 15, 2004**

Examiner: **KOPPIKAR, Vivek D.**

For: **Rule management method and system**

FILED ELECTRONICALLY

U.S. Patent and Trademark Office
Customer Window, Mail Stop Appeal
Randolph Building
401 Dulany Street
Alexandria , VA 22314

REPLY BRIEF

Dear Sir:

The following is intended to be responsive to the Examiner's Answer mailed January 20, 2010. In particular, the undersigned is resubmitting the Appendix to the declaration of Mr. Schoenberg as an attachment hereto which now shows pages 12-14 of the submission. The previous submission inadvertently redacted out page 12 which is explicitly referenced and relied upon in Mr. Schoenberg's declaration to show an invention date for the current claims that predates the earliest date of the cited Claud reference (2005/0216313). The appended document entitled "CareKey Key Organizer Customization Catalog" clearly indicates conception and reduction to practice of the rules limitations of independent claims 12 and 35 which are implemented through the computerized CareKey system. The written substance of page 12 is set forth below:

"RULE MANAGEMENT

Rules are one of the most powerful uses of the concept infrastructure in the CareKey system. Rules build on concepts in the system to drive various automatic behaviors. They allow organizations to target specific patient populations, and make available to them information and tools that are relevant to their health conditions and interests. Rules automatically personalize member records while limiting the need for manual interaction. Thus, a rule based on the */s Diabetic* concept would make available to all diabetics such things as an HgbA1C tracker, educational information about Diabetes, and an automatic report to the patient on the changes in her HgBA1C level over time

Creating rules is an ongoing process that is flexible to the changing needs of the organization and its patients. In the customization process, however, it is useful to first identify the key populations the organization is interested in targeting and then create the main rules and content packages for those groups. Rules can be created to run on an ongoing basis or for a specific relevant timeframe. Below are the three main steps for creating a rule.

WHO? Defining the population

The first step to creating a rule is defining the group of patients whose condition you are interested in monitoring (Patients we want to target). For example: Patients with Asthma; Males over 50 with pending PSA tests; Diabetic patients who have not had an HgBA1C result recorded in the past 6 months.

WHAT? Defining the actions

The second step to creating a rule is defining what actions the CareKey system will perform once a condition as defined above is met. In other words, now that the system has found 1000 patients with Diabetes— what actions do you wish for the system to automatically perform?”

The screenshots evidence reduction to practice within a computer-based system. Additionally, the limitations directed to provider access to records having assigned confidentiality levels, were clearly known to the inventor of the present claims and explicitly described and claimed in commonly owned US Patent No. 6,463,417 which was incorporated by reference in the first paragraph of the present application. The following paragraph from Column 7 of the commonly owned ‘417 Patent is illustrative:

Accordingly, the present invention provides a method of and system for distributing medical information over a network in a granular manner, in which the patient determines the level of security associated with each category of his or her medical record. A requester of the patient's medical information must input the proper security access codes to the system in order to obtain the information contained within the record. The system enables the patient to distribute the security access codes for the hierarchy of security categories to medical personnel on a “need-to-know” basis, thus reducing the risk that highly private medical information be exposed to unauthorized personnel.

Accordingly, the undersigned submits that the invention of claims 12-28 and 35-40 was conceived and reduced to practice prior to the earliest priority date of the Claud reference as evidenced through the declaration, the appendix and inventors/assignees prior patent. Finally, the undersigned must note that the earliest priority date for the Claud reference is March 26,

2004 which is a mere 3 weeks or so before the filing date of the present application. To any individual familiar with the process for preparation and filing of a patent application, there is little to no chance the present invention was somehow conceived and written up in the present patent application all within the 3 week period post-dating March 26, 2004. The undersigned submits that this buttresses the declaration and evidence presented which establish that the invention antedates the Claud reference. The undersigned submits that the Claud reference does not qualify as prior art against the present invention and that the rejection of claims 12-28 and 35-40 does not establish a *prima facie* case of unpatentability.

CONCLUSION

The undersigned representative respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. The undersigned requests an in-person interview to discuss the positions articulated herein prior to the Office's decision on the merits and will follow-up post-filing to schedule. In addition, if any additional fees are required in connection with the filing of this response, the Commissioner is hereby authorized to charge the same to Deposit Account 50-4402.

Respectfully submitted,

Date: March 5, 2010
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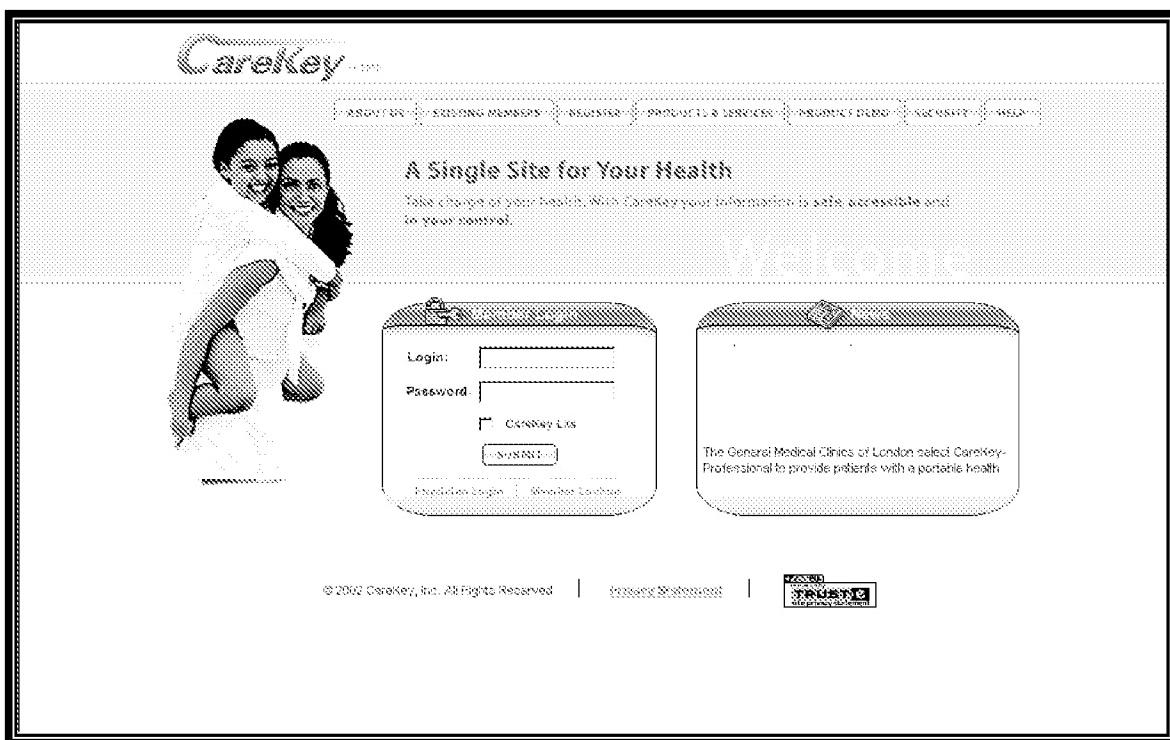
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CareKey

Key Organizer Customization Catalog



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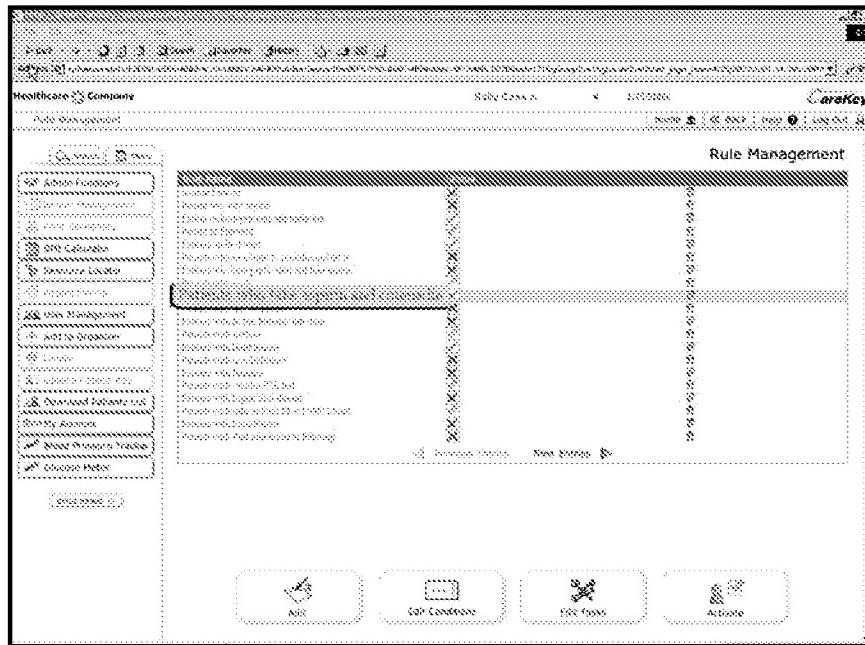
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RULE MANAGEMENT

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make available to them information and tools that are relevant to their health conditions and interests. Rules automatically personalize member records while limiting the need for manual interaction. Thus, a rule based on the *Is Diabetic* concept would make available to all diabetics such things as an HgbA1C tracker, educational information about Diabetes, and an automatic report to the patient on the changes in her HgBA1C level over time

Creating rules is an ongoing process that is flexible to the changing needs of the organization and its patients. In the customization process, however, it is useful to first identify the key populations the organization is interested in targeting and then create the main rules and content packages for those groups. Rules can be created to run on an ongoing basis or for a specific relevant timeframe. Below are the three main steps for creating a rule.

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| Action | Description | Example |
|--|---|---|
|  Posting | Post a link to the member's CareKey. The link will appear in the running news ticker. | American Diabetes Association site for Diabetics |
|  Messages | Post a message in the member's CareKey message box | Alert: Dual Rx of Drug A and Drug B combination is known to create adverse drug to drug interaction |
| Tools | Provide a member a specific tool | A Blood Sugar tracking tool for Diabetic patients. This tool will appear on the left panel of the member's CareKey. |
|  Email | Send an email to the member's email address | Email members who have not had an HgBA1C test performed in the last 6 months |
|  Concepts | Update a concept for members who satisfy defined criteria. | Update the Diabetic Risk Index for members who have: Insulin on their Medication list OR have a HgBA1C measurement OR have Diabetes listed in their Problem list. |
| | Update a concept that serves as a counter and accumulates longitudinal knowledge over time. | Update a Diabetic Compliance counter for all members who have had a HgBA1C test performed on time. You can later view the distribution of the compliance in a certain patient population. |
|  Pop-up | A pop-up message will appear when the member logs into her CareKey | Please complete the Diabetes Health Risk Assessment. Or Announce a change to the opening hours of the organization. |
| 1. Communities | Suggest a discussion board to members of a particular profile. | Diabetics Community for CareKey users who are interested in chatting with other diabetics |

| | | |
|---|--|--|
| 2. Recommendation (Information packets) | Post educational information to the member's message box | Post a message on the importance of HgbA1C testing. When the member opens her messages in CareKey she will see this recommendation. |
| 3. Reports | Automatically create a status report on particular parameters and send it to the member or another person in the member's fixed contact list. This report is sent by email | Send an updated HgbA1C chart with new educational material once every 6 months to the member and to her primary care physician (via email). |
| 4. Run program | Activate a custom program to perform a specific function with applications outside of the CareKey | Framingham tool calculation for Cardiac patients. Another example: link to a hospital paging system. |
| 5. Email third party | Send an email to an email address of other stakeholders who are part of the member's fixed contact list. | Notify member's primary care physician, by email, on number of patients who are late on their HgbA1C testing |
| 6. Automatic Alerts | Be notified about significant changes in the member's record. Flag the patient in every Key Organizer where this patient appears | Alert the case manager about patients with abnormal peak flows. These patients will be flagged in the Key Organizer of every user treating this patient. |

WHEN? Defining the timing and frequency of the action performed

The third step to creating a rule is defining the time considerations to include: what is the action's start date? What is the end date? How often is the population evaluated and how frequently should the member receive a message?

Create your own rule:

| Group (Who?) | Task (What?) | Time (When? How Frequently?) |
|-------------------------------|--|--|
| Asthmatics, between 18 and 22 | Pop-Up: "Prepare for the winter: Avoid asthma attacks by dry cleaning your blankets and comforters where dust mites may reside." | Time: October, November Frequency: Evaluate for new members once every two days. Send a pop up to a member once every month. |

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